

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff,

vs.

CLARENCE MOSES WILLIS, *et al.*,

Defendants.

Case No. 2:15-cv-02366-JCM-GWF

ORDER

This matter is before the Court on Defendant Clarence Moses Willis' ("Defendant") Motion to Strike Plaintiff's First Amended Complaint (#46), filed on March 9, 2016. Plaintiff filed a Response (#53) on March 28, 2016. Defendant filed a Reply (#59) on April 8, 2016.

Defendant requests that the Court strike Plaintiff's First Amended Complaint (#41) as untimely. Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure allows a party to amend its pleading once as a matter of course "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Moreover, Rule 6(a)(1)(A) of the Federal Rules of Civil Procedure provides that when computing any time period described in the Federal Rules, the parties are to "exclude the day of the event that triggers the period."

Plaintiff filed its original Complaint (#1) on December 10, 2015. Defendant Ernest C. Aldridge responded to the Complaint by filing a Motion to Dismiss (#34) on February 3, 2016. The parties agree that the filing of the Motion to Dismiss was the triggering event. However, Defendant believes that the 21 day time period began on February 3, 2016, which would make February 24, 2016 the last day for Plaintiff to amend its pleading. Plaintiff disagrees and asserts that the last day for it to amend its pleading was February 25, 2016—the day it filed its First Amended Complaint.

1 The Court agrees with Plaintiff. Rule 6 of the Federal Rules of Civil Procedure instructs that the
2 parties are to exclude the day that triggers the event. Here, the parties were to exclude February 3,
3 2016. As such, 21 days from February 4, 2016 was February 25, 2016. Plaintiff's First Amended
4 Complaint was therefore timely filed. Accordingly,

5 **IT IS HEREBY ORDERED** that Defendant Clarence Moses Willis' Motion to Strike
6 Plaintiff's First Amended Complaint (#46) is **denied**.

7 DATED this 13th day of April, 2016.

8
9 
10 GEORGE FOLEY, JR.
United States Magistrate Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28